

AS

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 96-119-C - ORDER NO. 96-731

OCTOBER 10, 1996

IN RE: Application of Intermedia Communications,)
Inc. for A Certificate of Public) ORDER
Convenience and Necessity to Provide Local) APPROVING
Telecommunications Services within) CERTIFICATE
the State of South Carolina.) TO PROVIDE
) LOCAL
) SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Intermedia Communications, Inc. ("ICI" or "the Company"). When this Application was filed, the Company was known as "Intermedia Communications of Florida, Inc." Since that time, the Company has officially changed its name to "Intermedia Communications, Inc." The Application requests that the Commission grant a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services, including local private line service, in South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts), and the Regulations of the Commission.

By letter dated April 30, 1996, the Commission's Executive Director instructed ICI to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to

inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. ICI complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth"); the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); GTE South Incorporated ("GTE"); the South Carolina Telephone Association ("SCTA") and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on September 5, 1996, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. ICI was represented by James W. Freeman, Esquire; BellSouth was represented by Harry M. Lightsey, III, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; SCTC was represented by Margaret M. Fox, Esquire; and the Commission Staff ("Staff") was represented by Catherine D. Taylor, Staff Counsel. GTE and SCTA did not appear.

Prior to the hearing, ICI and the Coalition executed a Stipulation dated September 5, 1996. The Stipulation provides the following:

(1) The Coalition did not oppose the granting of a statewide Certificate of Public Convenience and Necessity to ICI if the Commission made the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) ICI agreed that any Certificate granted by the Commission will authorize ICI to provide service only to customers located in

non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) ICI agreed that it did not request the Commission to find whether competition is in the public interest for rural areas;

(4) ICI agreed that it would not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until ICI provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. ICI also acknowledged that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) ICI agreed that if, after ICI gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then ICI will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) ICI acknowledged that any right which it may have or acquire to serve a rural telephone company service area in South

Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) ICI and the Coalition agreed that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) ICI agreed to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the Coalition and ICI and was filed with the Commission prior to the hearing in this matter. We therefore accept the stipulation.

In support of its Application, ICI presented Thomas E. Allen, Jr., to testify. Allen is the Vice President for Strategic Planning and Regulatory Policy of ICI. The purpose of Allen's testimony was to (1) describe ICI's proposed service offerings; (2) describe the financial, technical, and managerial resources of ICI; and (3) describe the Application. Allen testified that the Applicant's networks were initially established in other states to provide special access and private line services, but, due to

customer demand, ICI has expanded those services to include local exchange services. According to Allen, ICI plans to operate as a full-service, facilities-based telecommunications provider initially offering service in metropolitan areas. Allen stated that the network's configuration will evolve, but initially it will rely heavily on resale of existing local exchange company services and facilities. He stated that ICI has entered into interconnection co-carrier agreements with BellSouth in South Carolina.

DISCUSSION

S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, ICI's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by ICI should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) and the evidence presented which relates to that criteria:

(1) The Commission finds that ICI possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1). To demonstrate ICI's technical qualifications, witness Allen testified

that ICI has been providing telecommunications services in various states since 1988. The Commission granted a Certificate of Public Convenience and Necessity to ICI to provide resold interexchange telecommunications services within South Carolina on June 10, 1996, in Docket No. 96-044-C (Order Nos. 96-400 and 96-474). Concerning ICI's managerial qualifications, Allen testified that ICI's leadership team has considerable experience in executive telecommunications management and extensive operational experience. Further, Allen noted that ICI has drawn its managerial team from many established companies in the telecommunications industry. Regarding ICI's financial resources, Allen stated that ICI is a publicly traded corporation and is financially well qualified to provide telecommunications services in South Carolina. He further stated that ICI has adequate access to the capital required to fulfill its undertakings with respect to construction of networks and associated operating and maintenance costs. No party offered any evidence in opposition to Allen's testimony. Based on the undisputed testimony of Allen, the Commission finds that ICI possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that ICI will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (as amended by Act No. 354, 1996 S.C. Acts). Allen testified that ICI seeks to provide intrastate local exchange services. Allen specifically stated that ICI will comply with all applicable rules, policies, and statutes applicable to the offering

of those services and that ICI fully intends to meet the Commission's service standards. Allen also testified to the Company's ability to quickly handle customer service and repair requests. As well, he assured the Commission that ICI would maintain a regulatory contact person as required by Commission regulation. No party offered any evidence to dispute Allen's testimony. Based on the undisputed testimony of Allen, the Commission believes, and so finds, that ICI will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that ICI's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (as amended by Act No. 354, 1996 S.C. Acts). The record shows that ICI believes that availability of affordable local service will increase with ICI's admittance into the local market. Further, Allen's prefiled testimony reveals that ICI anticipates that approval of its Application will increase competition for basic local exchange services which will offer customers in South Carolina a wider range of product offerings, innovative technologies, increased quality, and lower prices for local telecommunications services. No party offered any evidence that the provision of local exchange service by ICI would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by ICI will not adversely impact affordable local exchange service.

(4) The Commission finds that ICI will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (as amended by Act No. 354, 1996 S.C. Acts). Allen testified that ICI fully intends to comply with the Commission's universal service requirements and will contribute to universal service mechanisms on the state and federal levels as the universal service mechanisms may apply to ICI. No party disputed Allen's testimony. Based on the undisputed evidence of record, the Commission finds that ICI will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by ICI "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts). Allen offered that the competition of ICI offering services in South Carolina will benefit customers. Allen explained that citizens will be benefited by a unified source of telecommunications services, as well as by capital investment in South Carolina and an increased tax base. Further, Allen offered that competition will promote improvements to telecommunications services. Allen's testimony was undisputed as no party offered any evidence that approval of ICI's Application would adversely impact the public interest. Therefore, the Commission finds that approval of ICI's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by ICI should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of ICI for a Certificate of Public Convenience and Necessity to allow ICI to provide resold and facilities-based intrastate local exchange services, including local private line service, in South Carolina is approved. ICI is hereby authorized to provide intrastate resold and facilities-based local exchange service, including local private line service, in South Carolina.

2. ICI shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which ICI agreed with the Commission Staff.

3. ICI shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, ICI shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. ICI shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. Further, ICI shall promptly notify the Commission in writing if the representatives are replaced. ICI is directed to comply with all

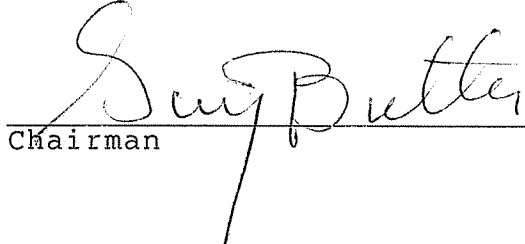
Commission regulations unless expressly waived by the Commission.

4. ICI shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. The Stipulation filed by ICI and the Coalition is approved by this Commission, is binding upon ICI and the Coalition, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)